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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/235,038 01/21/99 KRUY

S 777.240US1

TM02/0702

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EXAMINER

COLBERT, F

ART UNIT

PAPER NUMBER

2172  
DATE MAILED:

07/02/01

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

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# Office Action Summary

Application No.

09/235,038

Applicant(s)

KRUY ET AL.

Examiner

Ella Colbert

Art Unit

2172

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. Claims 1-18 are presented for examination. Claims 1, 4-8, 10-13, and 15-17 have been amended in this communication filed 04/18/01, enter as amendment A, paper number 7.
2. Applicants' amendment to the abstract overcomes the objection to the abstract, set forth in paper no. 4, and is hereby withdrawn.
3. Applicants' amendment to claims 1-18 under 35 USC 112 second paragraph, as set forth in paper number 4, overcomes the 35 USC 112 second paragraph rejection and is hereby withdrawn.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

5. Claims 1-18 are rejected under 35 U.S.C. 102(e) as being anticipated by (US 6,145,119) House et al, hereafter House.

With respect to claim 1, House discloses, note: the claimed, a program to manipulate an item (col. 2, lines 4-8), a database having the item (col. 3, lines 44-50), a source code control (SCC) system to store versions of the item (col. 6, lines 17-30, col.

7, lines 52-67, and col. 8, lines 1-5), and a mechanism to check in and check out the item (col. 5, lines 10-27).

With respect to claim 2, an editor program to edit the stored program (col. 5, lines 10-27).

With respect to claim 3, the program requests to check out the item such that the mechanism checks out the item to the program (col. 4, lines 32-49).

With respect to claim 4, a choice of a version of the item at the source code control (SCC) system and a version of the item at the database (col. 6, lines 17-34 and col. 7, lines 52-67).

With respect to claim 5, this dependent claim is rejected for the similar rationale given for claim 4.

With respect to claim 6, this dependent claim is rejected for the similar rationale given for claim 4.

With respect to claim 7, this dependent claim is rejected for the similar rationale given for claim 1.

With respect to claim 8, this dependent claim is rejected for the similar rationale given for claim 1.

With respect to claim 9, the database comprises a Structured Query Language (SQL) database (col. 5, lines 10-27).

With respect to claim 10, comparing a stream of the item in the source code control (SCC) system with a stream of the item in a database (col. 7, lines 6-28).

Claim 10 is also rejected for the similar rationale given for claims 1-4.

With respect to claims 11-14, these claims are rejected for the similar rationale given for claims 1-4.

With respect to claims 15-18, these claims are rejected for the similar rationale given for claims 10-14.

***Response to Arguments***

6. Applicant's arguments filed 04/18/01 have been fully considered but they are not persuasive.

With respect to Applicants' argument: House does not teach or suggest using a source code control (SCC) system to store versions of an item is not persuasive because the Examiner interprets House as teaching this claim limitation in col. 6, lines 17-30, col. 7, lines 52-67, and col. 8, lines 1-5.

With respect to Applicants' argument: House does not teach a development computer permits an item to be checked in or out is not persuasive because the Examiner interprets House as teaching this in col. 5, lines 10-37. The Examiner is giving the "a mechanism" performing the "check in and check out" of "the item" the broadest reasonable interpretation in light of the Specification. It is not clear to the Examiner in the Specification or the claim language what Applicants' mean by "a mechanism" and "check in and check out the item."

Under Section 102 of Title 35 of the United States Code, the Examiner carefully drew up a correspondence between each of Applicants' claimed limitations and one or more referenced passages in House. The Examiner is entitled to give claim limitations their broadest reasonable interpretation in light of the Specification (see below):

2111 Claim Interpretation; Broadest Reasonable Interpretation [R-1]

**>CLAIMS MUST BE GIVEN THEIR BROADEST REASONABLE INTERPRETATION**

*During patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification." Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541,550-51 (CCPA 1969) (Claim 9 was directed to a process of analyzing data generated by mass spectrographic analysis of a gas. The process comprised selecting the data to be analyzed by subjecting the data to a mathematical manipulation. The examiner made rejections under 35 U.S.C. 101 and 102. In the section 102 rejection, the examiner explained that the claim was anticipated by a mental process augmented by pencil and paper markings. The court agreed that the claim was not limited to using a machine to carry out the process since the claim did not explicitly set forth the machine. The court explained that "(reading a claim in light of the specification, to thereby interpret limitations explicitly recited in the claim, is a quite different thing from 'reading limitations of the specification into a claim,' to thereby narrow the scope of the claim by implicitly adding disclosed limitations which have no express basis in the claim. "The court found that applicant was advocating the latter, e.g., the impermissible importation of subject matter from the specification into the claim).<*

**Conclusion**

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

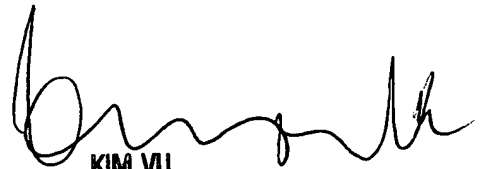
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 703-308-7064. The examiner can normally be reached on **Monday-Thursday from 6:30 am -5:00 pm.**

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on 703-305-4393. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-9051 for regular communications and 703-308-9051 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-96000.



E. Colbert  
June 26, 2001



KIM VU  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100